held that such mental depression, horror and dread lower vitality and resistance to disease, and deprive the home of the comfort and repose to which the owner is entitled. *Saier* v. *Joy*, 198 Mich. 295 (undertaker). It was decided however in *Westcott* v. *Middleton, supra,* that the discomfort must be produced through the organs of the senses and not by imagination or a morbid taste. It appears also that the depressive effects of thoughts of death when occasioned by a cemetery do not constitute "sensible personal discomfort" which the law will recognize. *Monk* v. *Packard,* 71 Me. 309; and that such suggestions afford no ground for relief even when sufficient to lessen the market value of adjacent premises. *Rea* v. *Tacoma Mausoleum Ass'n,* 103 Wash. 429; and that contemplation of death may even be beneficial and of a "salutary influence." *Ellison* v. *Commissioners of Town of Washington,* 58 N. C. (5 Jones' Eq.) 57. A cemetery is not a nuisance *per se. Kingsbury* v. *Flowers,* 65 Ala. 479; but may become such by reason of its location or condition. *Monk* v. *Packard, supra.* A private or public tomb or cemetery is not a nuisance unless it corrupts the atmosphere with unwholesome or noxious stenches, or corrupts the water of wells or springs or impregnates the soil with noxious gases or substances. WOOD, NUISANCES, 3rd Ed., p. 6-12, and cases cited. In actions against hospitals or sanitariums, fear of contagion, even when unreasonable and scientifically unfounded, has been made the basis of injunctive relief. *Everett* v. *Paschall,* 61 Wash. 47; *Stotler* v. *Rochelle,* 83 Kan. 86. See also note in 17 MICH. L. REV., p. 428.

SLANDER—REPETITIONS BY THIRD PERSONS—MEASURE OF DAMAGES.—In review of an action for slander wherein evidence of unauthorized and unprivileged repetitions of the statement was allowed to prove the full measure of damages and such evidence was later struck from the record. *Held,* reversing the lower court, the admission of this evidence was error,—unauthorized and unprivileged repetitions of a slander, current rumors and reports of it are not to be anticipated by the originator, and damages resulting therefrom are not the natural or probable consequences of his utterance; the intervening repetitions, rumors, or reports are the proximate cause of such damages. *Maytag* v. *Cummins* (C. C. A., 8th Circ, 1919), 260 Fed. 74.

This is the general authoritative rule in this country today, *Elmer* v. *Fessenden,* 151 Mass. 359, 5 L. R. A. 724; *Age-Herald Publishing Co.* v. *Waterman,* 188 Ala. 272, Ann. Cas. 1916E, 900, 25 Cyc. 506, note 82; and a plaintiff may recover from the original utterer of a slander only so much damages as a jury thinks ensued from the original utterance, considered by itself. The basis of this rule, as stated in the principal case, is that evidence of repetitions, reports, and rumors of the original utterance will be hearsay, simple or multiple, within the ban of the hearsay rule, and morever, for each unauthorized and unprivileged repetition a party has his action against the utterer. But in a clear and well-reasoned dissent from the general rule laid down above, Stone, J., states the counter rule,—that evidence of unauthorized and unprivileged repetitions of defamatory statements is admissible in defamation cases—upon the theory that the defendant is responsible for the natural and probable consequences of his slanderous utterance,—and whether the

subsequent repetition or rumor is such a consequence is a matter of fact ordinarily to be determined by the jury, citing in support, *Merchants' Ins. Co.* v. *Buckner,* 98 Fed. 222; *Williams* v. *Fulks,* 113 Ark. 82; *Moore* v. *Stevenson,* 27 Conn. 14; *Zier* v. *Hofflin,* 33 Minn. 66, 53 Am. Rep. 9; *Rice* v. *Cottrel,* 5 R. I. 340. The reasoning in support of the rule is as follows: all compensatory damages are based upon injury actually suffered from the wrongful act of the defendant and its natural and probable consequences. The extent of injury in defamation is unique in one very important feature, in that it depends almost entirely upon the extent of the circulation of the defamation. The more wide-spread the circulation of rumors, reports, and repetitions, that is, the greater the damage, the more intangible and difficult the fixing of the responsibility for the injury as a whole. Hence justice to one slandered, in measuring damages, as well as a protection to the defendant against excessive damages requires that such evidence should be allowed. And the rule of law being that a man is liable in damages for his wrongful act and all its natural and probable consequences, why should a rule of evidence, technically applied, exclude from the jury evidence that they may consider in determining what are natural and probable consequences? The admission of such evidence for such a purpose would effect full and satisfactory justice for the plaintiff in slander cases where the defamatory statements are widely circulated, thus replacing the practical distressing situation of today, recovery varying inversely to the injury, with a recovery directly proportioned to the injury suffered.

TELEGRAPHS AND TELEPHONES—LIABILITY FOR UNREPEATED MESSAGES.—The plaintiff sent a reply telegram to his agent, in another state, in which the defendant company made an error in transmission, so that the plaintiff's agent sold land for $50, instead of $55 per acre, and the plaintiff sues for damages. There were the usual printed stipulations on the telegram blank, limiting the liability of the company, for mistakes in transmission, to the price of the telegram, unless repeated, and in any event to $50 unless a greater value was declared in writing, and an additional rate was paid. *Held,* in the absence of a decision by the Supreme Court of the United States, that the stipulation was invalid, even though an interstate telegram. *Western Union Telegraph Co.* v. *Southwick* (1919, Texas), 214 S. W. 987.

Since the act of Congress, June 18, 1910, c. 309, Sec. 7 (U. S. Compiled Statutes 1913, Sec. 8563) telegraph and telephone companies have been carriers within the meaning of that act, as far as interstate business was concerned, and have been under the Interstate Commerce Commission. The various state jurisdictions have been in conflict as to whether telegraph companies could limit their liability for error in transmission due to negligence, although the tendency has been toward the rule that they could not. 2 MICH. L. REV. 420. The Supreme Court of the United States had held in the case of a cipher message, that such a limitation was reasonable and valid, although they held that a telegraph company was not a common carrier. *Primrose* v. *Western Union Telegraph Co.,* 154 U. S. 1. At the present time the courts differ as to the application of *Primrose* v. *Western Union Telegraph Co.,*